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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/742,527	12/21/2000	John P. Blasko	T721-14	6850
27832	7590	11/14/2005		
TECHNOLOGY, PATENTS AND LICENSING, INC./PRIME 6206 KELLERS CHURCH ROAD PIPERSVILLE, PA 18947				
			EXAMINER RETTA, YEHDEGA	
			ART UNIT 3622	PAPER NUMBER

DATE MAILED: 11/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/742,527

Applicant(s)

BLASKO ET AL.

Examiner

Yehdega Retta

Art Unit

3622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-63 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-63 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>8/18/04, 8/12/04</u> | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 3622

DETAILED ACTION

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-54 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-27 of U.S. Patent No. 6,324,519. Although the conflicting claims are not identical, they are not patentably distinct from each other because they are obvious variation of each other.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 8 recites the limitation "the proposed price" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 30 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 30 is dependent to claim 31, which dependent to claim 30. Correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-4, 6, 7, 8-13, 16-25, 27-33, 36-43, 46-63, are rejected under 35 U.S.C. 102(e) as being anticipated by Hendricks et al. (US 6,463,585).

Regarding claims 1, 22 and 42, Hendricks teaches correlating available addressable units of a communication network with avails (advertising opportunities) (see fig. 4, col. 4 line 54 to col. 5 lines 51). Hendricks teaches purchase of an avail on results of correlation (see col. 36 line 57 to col. 37 line 12). Hendricks teaches selecting a set of advertisements used in the chosen grouping by the advertisers and the frequency of display based on number of requests and cost paid by the respective advertisers to have the commercial displayed (see col. 71 lines 3-49).

Art Unit: 3622

Hendricks also teaches algorithm supporting different rates charged to different advertisers and taking into account the advertiser's budget and defining unique target categories and groups for an advertiser etc., which indicates that Hendricks generates a price for the avail based on result of the correlation since advertisers are being charged for the commercial displayed.

Regarding claims 2, 23, 43, Hendricks teaches storing addressable unit data comprising information concerning characteristics of individuals associated with the addressable units (see col. 26 line 42 to col. 27 line 38 col. 42 line 65 to col. 43 lines 5, col. 48 line 23-31); receiving segment characteristics of a market segments from a user (see col. 30 line 54 to col. 31 line 55); correlating the received segment with the stored addressable unit data and automatically identifying the available addressable units to be correlated with the avail (see col. 21 lines 19-44, col. 68 line 48-60; col. 70 line 40 to col. 71 line 45).

Regarding claims 3, 4, 24, 25, 46-49, Hendricks teaches storing geo-demographic data and correlating geographic area with addressable unit data to identify the available units (see col. 4 line 54 to col. 5 line 50, col. 26 lines 42-67, col. 29 lines 6-60, Table D).

Regarding claims 6, 7, 18, 27-29, 38, 50-53, Hendricks teaches storing viewership data identifying types of materials that viewers associated with the units and correlating the data with available units and identifying at least one avail associated with the list of materials (see col. 20 lines 4-35, col. 47 lines 33-60, col. 66 line 16 to col. 67 lines 4, col. 68 line 48-55, col. 70 line 40 to col. 41 line 49).

Regarding claims 8-13, 30-33 and 54-58, Hendricks teaches selecting a set of advertisements used in the chosen grouping by the advertisers and the frequency of display based on number of requests and cost paid by the respective advertisers to have the commercial

Art Unit: 3622

displayed (see col. 71 lines 3-49). Hendricks also teaches the algorithm supporting different rates charged to different advertisers and taking into account the advertiser's budget and defining unique target categories and groups for an advertiser etc., wherein the parameters include at least one of a size of addressable units and a number of avails (see col. 37 lines 1-10, col. 71 lines 10-49).

Regarding claims 16, 36, Hendricks teaches receiving payment information from a user for purchasing the at least one avail and processing the payment (see col. 71 lines 10-49).

Regarding claims 17, 19-21, 37, 39-41 and 59-63, Hendricks teaches communication network as television service network or Internet and the units as set top boxes or nodes (see 9 lines 47-58, col. 64 line 55 to col. 65 line 14).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5, 14, 15, 26, 34, 35, 44 and 45, are rejected under 35 U.S.C. 103(a) as being unpatentable over Hendricks further in view of Hunter (US 6,424,998).

Regarding claims 14, 15, 34, 35 and 45, Hendricks is silent in regard to displaying the generated proposed price and a display device and the proposed price is overlaid on a display of available addressable units. Hunter teaches providing a customer interface (input device) for customer to see what time slot is available and for scheduling and purchasing the desired advertising time slot (see col. 4 lines 1-28 and col. 5 lines 1-51 and col. 8 lines 44-67). It would

Art Unit: 3622

have been obvious to one of ordinary skill in the art at the time of the invention to include a display and input means, as in Hunter, in Hendricks advertisement system to provide customers with direct access to schedule and purchase time from available slots according to their preferences, as taught by Hunter (see col. 8 lines 44-67).

Regarding claim 5, 26, 44, Hendricks teaches use of graphical tools for analysis of data through the use of multiple graphic types such as line graphs, bar and charts, and teaches advertisers selecting subscriber based on demographic profile (see col. 30 line 65 to col. 31 line 6, col. 68 lines 48-55, col. 70 lines 31-67). It is will know in the art of geographic information system to provide geographic or location data in a form of a map. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the geographic data in the using a map since a map provides an easy and user-friendly view of geographic location.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

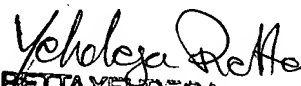
Saxe (US 5,636,346) teaches selectively targeting advertisements and programming to different demographically targeted television audiences.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yehdega Retta whose telephone number is (571) 272-6723. The examiner can normally be reached on 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3622

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


YEHDEGA
RETTA
PRIMARY EXAMINER

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